

**INDIANA HARBOR AND CANAL
CONFINED DISPOSAL FACILITY
EAST CHICAGO, INDIANA**

**APPENDIX J
REAL ESTATE**

Acquisition Branch
Real Estate Division
Chicago District
U.S. Army Corps of Engineers

**APPENDIX J
REAL ESTATE PLAN
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**INDIANA HARBOR AND CANAL
CONFINED DISPOSAL FACILITY
MAINTENANCE DREDGING AND DISPOSAL ACTIVITIES**

**APPENDIX J
REAL ESTATE**

INTRODUCTION

This Real Estate supplement supports the Detailed Design Report for this project.

PURPOSE

1. This Real Estate Appendix describes the overall real estate requirements for the Indiana Harbor Confined Disposal Facility.

DESCRIPTION OF LANDS, EASEMENTS, AND RIGHTS-OF-WAY

2. IHC is located in East Chicago, Lake County, Indiana. It is on the Southwest shore of Lake Michigan, 4 ½ miles east of the Illinois-Indiana State Line and 17 miles from downtown Chicago (see map labeled Exhibit A). The site is located in an industrial area. The nearest housing development is over ½ mile from the site.

Total land requirements for this project are 164.24 acres. One area of concern is identifying an adequate borrow site for the project. A potential site has been identified but has not yet been confirmed as to adequacy. Preliminary estimates are that up to 1 million cubic yards of clay will be required for the project. The Real Estate Division has recently encountered problems in securing adequate borrow sites for other projects in the immediate area. The following estates may be acquired for this project:

1. **FEE.** The fee simple title to (*the land described in Schedule A*), subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

2. **TEMPORARY WORK AREA EASEMENT.** A temporary easement and right-of-way in, on, over and across (*the land described in Schedule A*), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spill and waste material thereon), move, store and remove equipment and supplies and erect and remove temporary structures on the land and to perform any other work necessary and incident to _____ Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the

landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

3. *BORROW PIT AND SPOIL AREA EASEMENT AND RIGHT OF WAY.* The temporary easement and right of way for a period not to exceed _____, in, over, and across (the land described in Schedule “A”) (Tracts Nos. _____, _____ and _____) for the purpose of removing borrow material and/or of depositing waste material thereon in connection with the construction, operation and maintenance of _____ project; together with the right to trim, cut, fell and remove timber, underbrush and other vegetation, structures, and any other obstructions or obstacles; reserving, however, to the owners of the said land, their heirs, administrators, executors, successors, and assigns, all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

SPONSOR OWNED LER

3. The Non-Federal Sponsor, the East Chicago Waterway Management District, currently owns 208.36 on or near the project area. The total land area required for this project is 164.24 acres, all of which is owned in fee by the Non-Federal Sponsor. This figure is comprised of 134.19 acres for the CDF itself, as well as 30.05 acres to be used as a Rehandling and Treatment area.

NONSTANDARD ESTATES

4. No non-standard estates are contemplated for this project.

EXISTING FEDERAL PROJECT

5. The existing Federal navigation project at the IHC was authorized by the River and Harbor Acts of 1910, and subsequent Acts of 1913, 1919, 1922, 1925, 1930, 1932, 1935, 1937, 1960, and 1965. The existing project is now complete except for maintenance dredging. The project consisted of the construction of three breakwaters, one lighthouse crib, and various dredging activities, all of which can be found on pg. 5 of the Design Documentation Report.

FEDERALLY OWNED LAND

6. No Federally owned lands are invoked in this project.

NAVIGATIONAL SERVITUDE

7. As mentioned in paragraph two, navigational servitude will be invoked for the maintenance dredging portions of this project.

PROJECT AREA AND MAPS

8. The proposed ECI confined disposal facility is located on lands that have open RCRA status. Approximately the south 400 feet of the ECI site (also known as Parcel I) previously housed the RCRA hazardous waste units. These structures were razed along with the above ground structures, but were never closed in conformance with RCRA regulations. Indiana Department of Environmental Management (IDEM) must approve proposals for closure of the RCRA hazardous waste units in the State of Indiana. Due to the ubiquitous nature of the on-site contamination on this parcel, IDEM determined that closure in place would be most appropriate for the area that previously housed these hazardous waste units. The in-site closure design of Parcel I would include a slurry wall, a gradient control system consisting of groundwater extraction wells that would maintain groundwater flow into this portion of the CDF, and an overlaying three foot compacted clay cap. The U.S. EPA has determined that construction of these components would address the corrective action requirements for Parcel I as well as Parcels IIA and IIB. These RCRA closure and corrective action components have been incorporated into the proposed CDF design. (See map labeled Exhibit B.)

POSSIBLE INDUCED FLOODING

9. No induced flooding is being considered for this project.

BASELINE COST ESTIMATE

10. The proposed site was formerly owned by Energy Cooperative, Inc. (ECI). This site was a former oil refinery that was demolished in the 1980's. The refinery operations included the production of mineral spirits, propane, unleaded gasoline, fuel oil, kerosene, asphalt, grease, lubricating oils, paraffin wax, phenols, and sulfur. Additional investigation in 1990, including discussions with U.S. EPA, and the State of Indiana, indicated that the oil refinery structures on the site had been removed above the ground surface. However, there were facilities below ground level that had not yet been removed, including two structures that come under regulatory authority of RCRA.

A gross appraisal has been completed on the site that concluded that as clean industrial land it would have a value of \$331,000. The site currently has an open RCRA status and is not available for use until corrective action and closure meeting IDEM and U.S. EPA standards has been completed. The cost of corrective action, or cost to cure,

was estimated by Chicago District to exceed \$25,000,000, resulting in negative land value. The U.S. EPA has determined that cleanup is not economically viable. The land is therefore valued at \$0.

Administrative costs have been estimated for typical review of the non-Federal Sponsor. However, certain tasks will be performed by the Real Estate division on behalf of the Sponsor. As a result, the cost to review such tasks will be significantly lower. At this time, no assumptions can be made as to the cost of utility/facility relocations.

One area of concern is the identification of an adequate borrow site for the project. Preliminary estimates are that up to 1 million cubic yards of clay will be required for project purposes. The Real Estate Division has recently found that adequate clay borrow sites for other projects in the area of this project have been difficult to develop within a reasonable distance.

Since no definitive borrow site has been identified, an allowance for borrow costs was estimated. Approximately the same number of CY of clay was extracted from the Deep River Borrow Site. It was used as a baseline for estimating borrow site costs for this project. The easement cost for Deep River was \$86,000 for a five-year easement commencing in 1991. The CDF will not be capped until 33 years into the project, approximately 2035. Using an inflation factor of 2.5% per year, and a contingency factor of 35%, as more than one borrow site may be needed to extract the required amount of clay, the borrow site cost was estimated to be \$344,250. (See Exhibit C.)

RELOCATION ASSISTANCE BENEFITS (PL 91-646)

- 11.** No Public Law 91-646 relocations are required for this project.

MINERAL/TIMBER ACTIVITY

- 12.** There are no mineral extraction activities operating on or near the project lands at this time. Furthermore, no extractable minerals are known to exist within the project lands. No standing timber or vegetative cover having significant value has been identified.

UTILITIES/FACILITIES TO BE RELOCATED

- 13.** A 6.55-acre railroad easement bisecting the site will require relocation in kind to the northern boundary of the site. The relocation area totals 3.44 acres (see map labeled Exhibit B). Preliminary negotiations with the railroad, CSX, indicate legal problems exist between themselves and the State of Indiana regarding railroad rights-of-way. They suggested a “friendly condemnation” as the quickest way to resolve this problem. The non-Federal Sponsor is expected to request that the Corps of Engineers conduct the condemnation proceedings on their behalf and understands that this is a local responsibility. However, the Sponsor has no condemnation powers. They intend to enter into a Memorandum of Agreement with the Government, and fund all activities associated with this condemnation in advance. A formal request is forthcoming and a

Draft MOA has been prepared. Conversations with CSX indicate that the rail spur is active, supporting several steel mills and an Amoco refinery, and that they have no intention of abandoning the line. A preliminary relocation plan has been reviewed and approved by CSX. An Attorney Opinion of Compensability to determine the interest of the railroad is included (see Exhibit D).

Previous reports have identified other utilities in the project area. Inasmuch as the entire ECI facility has been demolished, all utilities related to operation are assumed to be inactive. If live utilities are discovered as a result of the inspection trench exploration, costs will be adjusted at that time. Provisions will be made in the MOA to include this work if needed.

SPONSOR CAPABILITY

14. The non-Federal Sponsor for this district is the East Chicago Waterway Management District. This is an established waterway management district pursuant to Indiana Statutes, Title 8, Article 10, Chapter 9. The district's jurisdiction includes all "territory, including both dry land and water, within a distance of one-half (1/2) mile on either side of the center line of any waterway within the city in which the district is established..." as stated in the above-mentioned Indiana Statute. According to the same Indiana Statute, one purpose of the district is to "plan for, develop, and maintain roads, bridges, and other structures in connection with a waterway within the jurisdiction of the district consistent with the obligations and jurisdictions of other agencies of the federal or state government."

Because only minimal acquisition is required for this project and the non-Federal Sponsor will seek Federal assistance in the railroad relocation, the Real Estate Acquisition Capabilities Assessment was abbreviated to address only the pertinent questions.

I. Legal Authority

- a.** Does the Sponsor have legal authority to acquire and hold title to real property for project purposes? **Yes**
- b.** Does the Sponsor have power of eminent domain for the project?
No
- c.** Does the Sponsor have "quick take" authority for this project? **No**
- d.** Are any of the lands/interests in land required for the project located outside of the Sponsor's political boundary? **No**
- e.** Are any of the lands/interests required for the project owned by an entity whose property the Sponsor cannot condemn? **Condemnation of the CSX railroad right-of-way for relocation will be handled by**

USACE on behalf of the non-Federal Sponsor, as will any unidentified utility relocation.

f. Will the Sponsor likely request USACE assistance in acquiring real estate? Yes, the Sponsor has no condemnation powers under its statutory authorities and, unless subsequently obtained, will request that the Federal government perform a friendly condemnation suggested by the railroad. The non-Federal Sponsor already owns all CDF lands in fee, including lands to be provided for the railroad relocation.

g. Will the Sponsor's staff be located within reasonable proximity to the project site? Yes

h. Has the Sponsor approved the project/real estate schedule/milestones? Yes

i. With regard to this project, the Sponsor is anticipated to be: Fully capable

II. Coordination

a. Has this assessment been coordinated with the Sponsor? Yes

b. Does the Sponsor concur with this assessment? Yes

ZONING ORDINANCES ENACTED

15. Lands for this project are currently zoned industrial.

ACQUISITION SCHEDULE WITH MILESTONES

16. All lands required for this project are owned by the non-Federal Sponsor. The current engineering decision to require contractors to obtain their own borrow material and include that cost in their contract bids may be changed. Such a change would require that a borrow easement be obtained. Rights-of-Entry and Attorney Certifications should be completed in May 2000, within one month of the signing of the Project Cooperation Agreement. Railroad relocation should be completed by May 2001, through condemnation. Development of borrow sites will be accomplished within 1 year of identification.

PRESENCE OF CONTAMINANTS

17. Appendix R contains an analysis of HTRW materials located at the site, now owned in fee by the non-Federal Sponsor. The previous owner, and Potentially Responsible Party, is ECI. ECI declared Chapter 7 bankruptcy and is no longer in existence. Proceeds from the bankruptcy totaling \$13.22 million were set aside for closure and corrective action in a trust fund which is controlled by the non-Federal Sponsor as trustee. ARCO, a previous owner, has participated in corrective action to a limited extent.

A risk analysis, found in pages 129-130 of the Final Feasibility Report, was performed concerning the construction of the CDF. Given the design of the CDF, CERCLA exposures for releases are not likely. USACE will be operating the CDF until capped, and will participate in monitoring after the CDF is capped.

OWNER ATTITUDES/ISSUES

18. The non-Federal Sponsor is most anxious to initiate this project since no dredging activity has been conducted in the harbor since 1972. The sediment accumulation prevents ships from carrying full loads in the harbor and canal, thus creating an adverse economic impact to deep-draft navigation. Industry in the area is in favor of this project due to the economic benefits of increased navigation capabilities allowed by the dredging portion of the project. Local residents have concerns relating to dredge material odor and fear of contaminant migration from the CDF site.

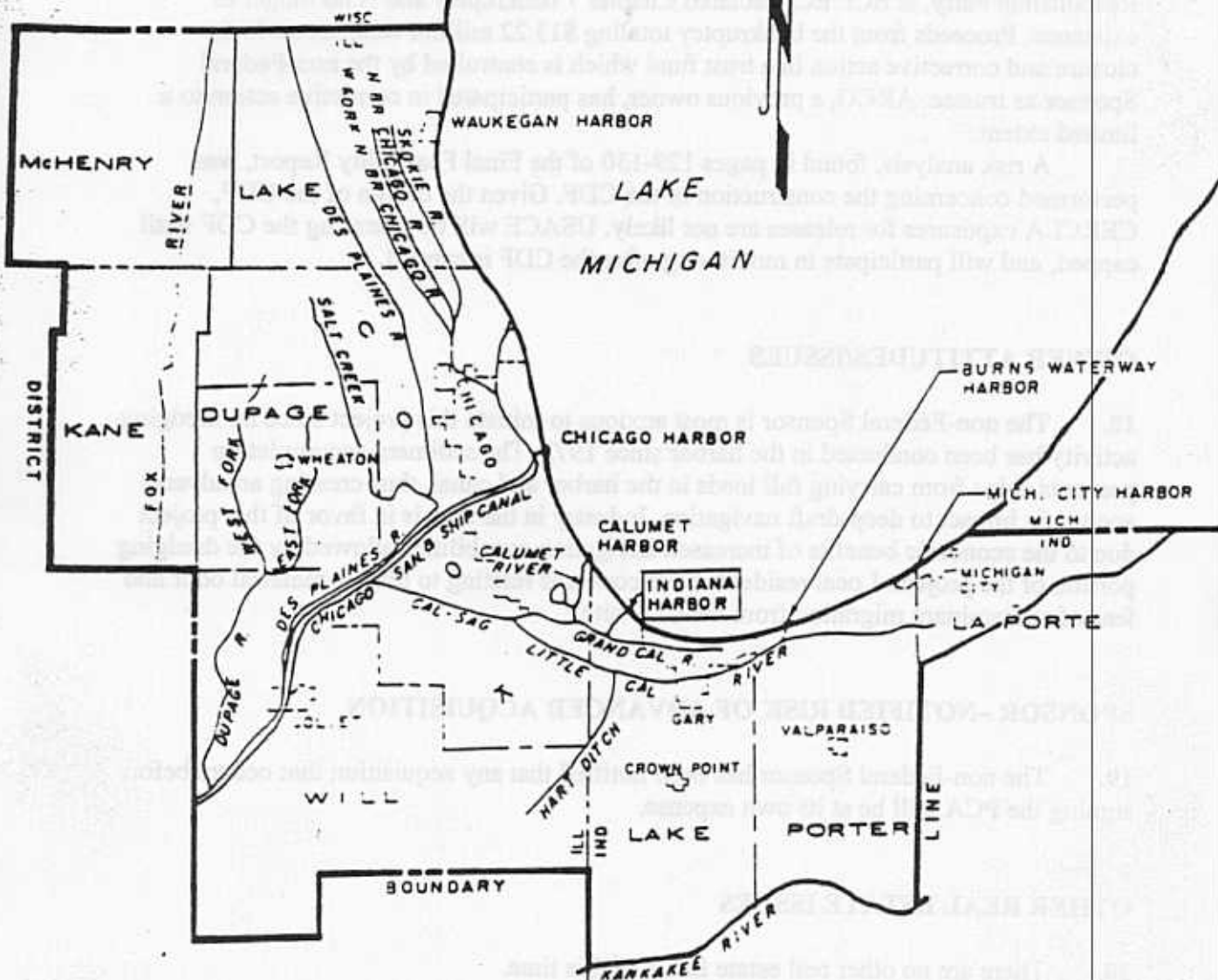
SPONSOR –NOTIFIED RISK OF ADVANCED ACQUISITION

19. The non-Federal Sponsor has been notified that any acquisition that occurs before signing the PCA will be at its own expense.

OTHER REAL ESTATE ISSUES

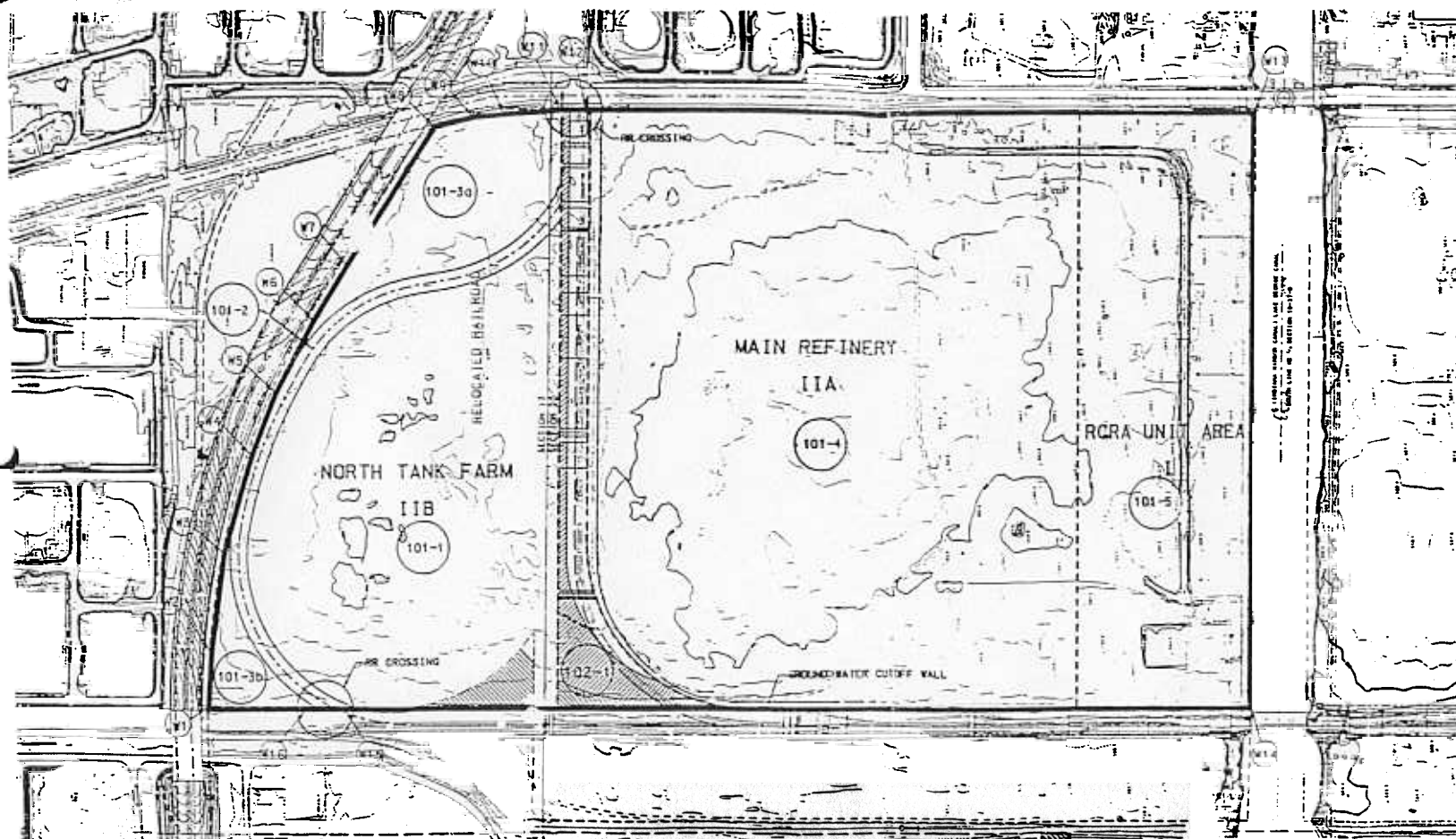
20. There are no other real estate issues at this time.

EXHIBIT A



**INDIANA HARBOR AND CANAL
LOCATION MAP
CHICAGO DISTRICT
US ARMY CORPS OF ENGINEERS
JUNE 1993**

EXHIBIT B



REAL ESTATE LEGEND

- PERMANENT RE INTERESTS
- - - - - CANAL CENTERLINE
- - - - - ROAD CENTERLINE
- - - - - PROPERTY BOUNDARY

TRACT REGISTER					REMARKS
TRACT NO.	LAND OWNER	ACREAGE	DATE	REMARKS	
101-1	East Chicago Refinery	32.68			
101-2	East Chicago Refinery	1.44			
101-3a	East Chicago Refinery	.84			
101-3b	East Chicago Refinery	1.78			
101-4	East Chicago Refinery	82.92			
101-5	East Chicago Refinery	130.06			

PERMANENT EASEMENT		
NUMBER	NORTHING	EASTING
#1	1,514,467.0	389,213.8
#2	1,514,453.8	389,413.8
#3	1,514,404.2	389,413.8
#4	1,514,301.0	390,123.5
#5	1,514,215.8	390,322.0
#6	1,514,080.8	390,577.5
#7	1,513,957.1	390,773.6
#8	1,513,643.1	391,256.2
#9	1,513,506.5	391,290.7
#10	1,513,398.2	391,256.2
#11	1,513,207.8	391,215.3
#12	1,513,123.8	391,314.8
#13	1,510,731.1	391,304.9
#14	1,510,767.3	389,197.4
#15	1,513,986.8	389,214.4
#16	1,514,128.9	389,214.4

INDIAN HARBOR AND CANAL
EAST CHICAGO, INDIANA
DESIGN DOCUMENTATION REPORT

REAL ESTATE MAP

INDIANA HARBOR CDF
NAVIGATION PROJECT
EAST CHICAGO, IN

REAL ESTATE SUPPLEMENT
Code 01 - Lands & Damages
Baseline Estimate

Account	Item	Unit	Qty	\$/Unit	Total (\$)	Contingency (\$)	(%)	Totals (\$)	Non-Fed (\$)	Federal (\$)
01A	Project Planning	M/D	25	706	17658	3532	20.00%	21190	0	21190
01B	Acquisitions									
01B2	By LS	Tract	1	1000	1000	200	20.00%	1200	1200	0
01B4	Review of LS	M/D	5	706	3530	353	10.00%	3883	0	3883
01C	Condemnations									
01C2	By LS	Tract	1	45500	45500	4550	10.00%	50050	50050	0
01C4	Review of LS	M/D	5	706	3530	353	10.00%	3883	0	3883
01D	Inleasing									
01D2	By LS	Tract			0	0	10.00%	0	0	0
01D4	Review of LS	M/D			0	0	10.00%	0	0	0
01E	Appraisals									
01E2	By Govt (Contract)	Each			0	0	10.00%	0	0	0
01E3	By LS	EACH	1	5000	5000	1000	20.00%	6000	6000	0
01E5	Review of LS	M/D	4	540	2160	216	10.00%	2376	0	2376
01F	PL 91-646 Assistance									
01F2	By LS	Tract			0	0	10.00%	0	0	0
01F4	Review of LS	M/D			0	0	10.00%	0	0	0
01G	Temporary Permits									
01G2	By LS	Each	2	600	1200	120	10.00%	1320	1320	0
01G4	Review of LS	M/D	2	706	1412	141	10.00%	1553	0	1553
01R	Real Estate Payments									
01R1	Land Payments									
01R1B	By LS	Each	1	255000	255000	89250	35.00%	344250	344250	0
01R1D	Review of LS	M/D		1	706	71	10.00%	777	0	777
01R2	PL 91-646 Title II									
01R2B	By LS	Each			0	0	10.00%	0	0	0
01R2D	Review of LS	M/D			0	0	10.00%	0	0	0
01R3	Damage Payments									
01R3B	By LS	Each			0	0	10.00%	0	0	0
01R3D	Review of LS	M/D			0	0	10.00%	0	0	0
TOTALS - LANDS & DAMAGES					336696	99785	29.64%	436481	402820	336661

EXHIBIT C

CSX Railroad Spur
Facility Relocation
Indiana Harbor CDF

Final Attorney's Opinion of Compensability

Prepared according to the guidance of ER 405-1-12, paragraph 12-22

I, Donald R. Valk, certify that I am an attorney-at-law duly licensed to practice law in the State of Michigan and that I am currently employed by the U.S. Army Corps of Engineers, Chicago, Real Estate Division.

I further certify that I have made an investigation into the extent of the Government's responsibility in connection with the proposed relocation of the following facility, the CSX Rail Corporation spur located west of Indianapolis Boulevard in East Chicago, Indiana.

1. Relevant factual background

The U.S. Congress has authorized the Government, acting through the U.S. Army Corps of Engineers, Chicago District, to pursue a project involving the maintenance dredging of the Federal channel within the Indiana Harbor and Canal located in East Chicago, Indiana. A Confined Disposal Facility (CDF) shall be required for the project due to the nature of the dredge spoil being removed from the channel. The site chosen for the CDF is the former ECI site in East Chicago, Indiana and consists of 164 acres of land owned in fee by the Local Sponsor, the East Chicago Waterway Management District (ECWMD). This location is the most acceptable from both an environmental and economic perspective. The District will be responsible for the relocation of all utility facilities as a part of their items of local cooperation as specified in the Project Cooperation Agreement. The utility facility in question is a single line railroad spur operated by CSX Corporation (Owner) that bisects the site and is utilized to run two trains of 5-10 cars in length daily to service the LTV Steel Company, Indiana Harbor Works, located directly east of the site, Comprehensive Management Plan, page 110 (CMP) dated January 1999. Thomas Sheahan, CSX Traffic Manager, Riverdale, Illinois Office, confirmed that LTV Steel is the major customer of the rail service provided by the line.

2. Description of Modifications

It is stated in the CMP that to facilitate the construction and operation of the CDF the rail spur should be relocated to the northern perimeter of the site property. Allowing the spur to remain in its present location would greatly increase the costs of both construction and operation and would be a potential source of continuing liability. If the spur is not relocated or removed the CDF will have to be constructed to incorporate two isolated segments that will require additional dike construction and additional supporting infrastructure such as cut-off walls, drainage control devices and monitoring wells. This

configuration would also result in a lower CDF capacity. There would be a considerable increase in handling costs as well. The dredged material would have to be transported across an active rail line causing scheduling problems as well as liability issues. The two segment configuration would allow CSX to operate their trains through what would amount to an artificially constructed canyon greatly increasing the possibility of damage to the dikes if a train were to disrail, see CMP dated January 1999, page 110.

3. Owner's duty to continue operation.

The Owner uses the spur to supply several major area industries, particularly the LTV Steel mill, with rail service bringing in raw materials and transporting manufactured goods from the plants. The spur is the only economically justified and logistically feasible rail route to the industries served and if shut down would cause an economic hardship on both the Owner and the industries served by the spur.

4. Owner's compensable interest.

The Owner's compensation is based upon the facility being located on an interest in real property that is considered compensable under Indiana law. It is well settled in Indiana law that a grant of a rail road right-of-way is considered either fee simple or an easement based on the language of the granting instrument, "[t]he general rule is that a conveyance to a railroad of a strip, piece, or parcel of land, without additional language as to the use or purpose to which the land is to be put or in other ways limiting the estate conveyed, is to be construed as passing an estate in fee, but reference to a right-of-way in such a conveyance generally leads to its construction as conveying only an easement." CSX Transportation v. Rabold 691 N.E.2d 1275, 78 (1998). Any reference to a right-of-way will cause the deed to be interpreted as conveying only an easement, Consolidated Rail Corp., Inc. v. Lewellen, 666 N.E.2d 958, 962 (Ind. Ct. App. 1996, adopted and aff'd 682 N.E.2d 779). The Court went on to state that public policy favored the construction of such grants as conveying an easement as opposed to fee simple, Id at 1278, citing Ross, Inc. v. Legler, 658 N.E.2d 346, 348 (1964). see also [Richard S.] Brunt Trust v. Plantz, 458, N.E.2d 251, 253 (1983) and L. & G. Realty & Construction Co. v. Indianapolis, 139 N.E.2d 580, 587 (1957). The initial grant of a railroad right-of-way was to the Owner's predecessor in title the South Chicago and Southern Railroad Company (SC&SRR) from the Sinclair Refining Company, as recorded in Deed Record 291, page 501, as Document No. 19863 dated September 17 1919 and recorded October 4, 1921. The SC&SRR merged into the Pendel Company in 1953 which in turn was merged into the Penn Central Corporation which was merged into Conrail in 1976 and sold to CSX Corporation and Norfolk and Southern Corporation in 1997. Since June 1, 1999 CSX has been operating the Conrail lines in the affected area. The land in question, described as parcel A for the project, is a railroad right-of-way described as follows:

A part of the NW quarter section of section 20, Township 37 North Range 9 West of the second principal Meridian, in the City of East Chicago, Lake County, Indiana, more particularly described as follows: commencing at a

concrete and brass monument found at the northwest quarter of said section 20; thence south 88 degrees, 49 minutes, 04 seconds east 455.04 feet along the north line of said Section 20 to the east right-of-way line of the CSX Railroad as shown in Deed Record 49, page 375; thence south 0 degrees, 15 minutes, 37 seconds west 49.75 feet along the said easterly right-of-way line of the CSX rail road to the point of beginning of the hereafter described parcel; thence south 89 degrees, 04 minutes, 57 seconds east 2117.07 feet to a point on the west right-of-way of Indianapolis Boulevard; thence south 0 degrees, 18 minutes, 0 seconds west, 100.64 feet along the west right-of-way of said Indianapolis Boulevard; thence north 89 degrees, 04 minutes, 45 seconds west, 1533.57 feet to a curve; thence along a curve to the left having a radius of 573.70 feet, a chord bearing of south 45 degrees, 27 minutes, 42 seconds west; and a chord distance of 817.84 feet to a point on the easterly right-of-way of the CSX Railroad; thence north 0 degrees, 15 minutes, 37 seconds east, 683.50 feet along said easterly right-of-way of said CSX Railroad to the point of beginning, containing 6.561 acres, more or less.

Depending upon the granting language the Owner has either fee simple or an easement which is also a permanent and irrevocable right in land, see Norfolk Redevelopment and Housing Authority v. Chesapeake and Potomac Telephone Company of Virginia, 456 U.S. 30, 104 S.Ct. 304, 78 L.Ed.2d 29 (1983). In either case the Owner has a compensable interest in real property under Indiana law

5. Opinion supporting the relocation of the spur

Federal courts have held that when privately owed railroad facilities, necessary for rail operations in the area are forced to relocate to land earmarked for the project, due to the construction of a Federal project, the acquisition required is the providing of a substitute facility, U.S. v 564.54 Acres of Land. More or Less. Monroe and Pike Counties. Pa., 441 U.S., 506, 515, 99 S.Ct. 1854, 1859, 60 L.Ed.2d 435 (1979). In this case that would consist of routing the spur to the northern perimeter of the project and reconnecting it with the B&OCT railroad line that borders the western edge of the project. The Project requires that the spur be relocated to facilitate the construction and operation of the CDF. The relocation is both economically and environmentally justified and necessary to ensure continued reliable and economical rail service to the area's industries. It is also the remedy under law.

6. Legal authority of the owner to accept the relocation as a substitute facility.

CSX Rail Corporation is the owner and operator of the facility, a railroad spur, and will suffer a negative impact as the result of the construction of the Project. Their facility is located within the boundaries of a duly recorded railroad right-of-way, granted to the owner's predecessors in title, the South Chicago and Southern Railroad Company,

which is a legally compensable interest under Indiana law. Therefore CSX Rail Corporation, as the owner of both the affected facility and the compensable interest in the underlying real property, has the legal authority to accept the relocation as the substitute facility for the spur crossing the property at the project site.

Donald R. Valk
Atty./Advisor, R.E.